

EXHIBIT 9

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

ePLUS, INC.

vs.

LAWSON SOFTWARE, INC.

:
: Civil Action No.
: 3:09CV620
:
:
: January 13, 2011
:

COMPLETE TRANSCRIPT OF THE JURY TRIAL

BEFORE THE HONORABLE ROBERT E. PAYNE

UNITED STATES DISTRICT JUDGE, AND A JURY

APPEARANCES:

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1 other software options?

2 A Yes.

3 Q Why did that happen?

4 A Again, we have had substantial growth.

5 THE COURT: Mr. Schultz, why does the growth of that
6 company have anything to do with infringement or invalidity?

7 MR. SCHULTZ: Not dealing with invalidity, Your
8 Honor.

9 THE COURT: Why does have to do with either one of
10 them? It's not invalidity. What about --

11 MR. SCHULTZ: It deals with infringement. It's
12 foundational, Your Honor. I'll get into --

13 THE COURT: Why don't you ask a question you think
14 makes a difference, because that doesn't.

15 MR. SCHULTZ: It's foundational, Your Honor.

16 THE COURT: You don't get questions in under the
17 guise of foundation if they don't really -- if they open up a
18 lot of different areas. Even if it's marginally relevant, it's
19 prejudicial because it causes delay and confusion. Go to the
20 question you want to ask him.

21 MR. SCHULTZ: Bill, could we bring up, and, Mr.
22 Yuhasz, could you look at Exhibit 207.

23 THE COURT: Plaintiff's or defendant?

24 MR. SCHULTZ: Defendant's Exhibit 207.

25 Q If you could focus in on -- well, actually, Mr. Yuhasz,

1 what is this document?

2 A This was an initial document to describe a business need
3 for better supply chain functionality.

4 Q Why was Novant looking for better supply chain
5 functionality?

6 A We were -- with our growth and a lot of -- our customers
7 surveys were getting us information, giving us feedback that it
8 was difficult to use the current system, finding the correct
9 product was difficult.

10 Our number of return products was growing because
11 customers were saying they couldn't find the right product,
12 they were ordering the wrong product or ordering it in the
13 wrong amount, and so we felt we needed to explore other options
14 for our ordering process.

15 Q What did you do as a result of the customer data that you
16 received?

17 A We did another request for proposal to search for a better
18 option that we felt had product catalogs, had a more robust
19 search capability, you know, that would be more user-friendly,
20 and things of that nature.

21 Q Were these feature that the Lawson system, as it was
22 installed at Novant, did not provide?

23 A Yes.

24 Q What happened as a result of the request for proposal
25 process?

1 A We had chosen another solution provider to run our
2 procurement processes.

3 Q How many companies responded to the request for proposal?

4 A I don't know the actual number that responded to the RFP.

5 Q Was ePlus one of the companies that responded to the
6 request for proposal?

7 A Yes.

8 Q What was the result for ePlus?

9 A They were eliminated in the first round based on vendor
10 scoring that their responses to the essential questions,
11 meaning they had to provide that it was an essential need,
12 business need, and they did not respond adequately enough to
13 those that were deemed essential.

14 Q Did Lawson bid for the work on the RFP.

15 A Yes.

16 Q You mentioned that Lawson did not, as a system currently
17 installed, did not have the functionality that you were looking
18 for. How did Lawson bid for that work if that was the case?

19 A They actually partnered with another solution provider to
20 provide the complete solution to meet the RFP requirements.

21 Q Who was that provider?

22 A SciQuest.

23 Q Who is SciQuest?

24 A It's another solution provider of procurement processes,
25 supply chain processing.

1 Q Does SciQuest have catalogs?

2 A Yes.

3 Q I'd like you to refer to Plaintiff's Exhibit 337, please,
4 which has the Bates number on the bottom right-hand corner LE
5 03394967. Do you recognize this document, Mr. Yuhasz?

6 A Yes. This is a document provided in an RFP response.

7 Q Let's turn to page three of the document.

8 MR. SCHULTZ: Bill, if you could turn to page three
9 and blow up the lower portion of the document.

10 Q Does the diagram detail who is responsible for the
11 different areas of the procurement?

12 A Yes.

13 Q And how do I tell, how do we tell who is responsible for
14 the different portions of the procurement process?

15 A The legend in the bottom right corner would describe
16 either an independent solution provider by either Lawson or
17 SciQuest or combined, and that correlates to how they
18 color-coded the particular modules that were to provide the
19 functionality.

20 Q So in the bottom right-hand corner, there's a green box,
21 and then there's Lawson product behind that. What does that
22 indicate?

23 A That indicates that a functionality that's all in green is
24 solely provided by the Lawson product.

25 Q And then in the legend at the bottom right-hand corner of

1 the document, it shows a white box followed by SciQuest
2 product. What does that mean?

3 A That similarly means the white colored functional modules
4 are solely provided by SciQuest.

5 Q And then there's a box that is part white and part green.
6 What does that mean?

7 A That means that both Lawson and SciQuest are going -- some
8 modules of theirs are going to be provided for that solution to
9 work.

10 Q Let's start at the top left of that document then. You
11 see the item master. Who is in control of the item master?

12 A That would be Lawson since it's green.

13 Q Then there's the next section, the supplier punchout
14 sites. Who is in charge of that?

15 A That is -- the arrow is pointing to content, and then
16 content is sitting over spin director, and spin director is a
17 SciQuest product.

18 Q So it's SciQuest's responsibility with respect to supplier
19 punchout sites?

20 A Correct.

21 Q Then the next product over is the supplier-hosted
22 catalogs. Who was responsible with respect to the
23 supplier-hosted catalogs?

24 A SciQuest.

25 Q So that was a SciQuest product?

1 A Yes.

2 Q That was not a Lawson product?

3 A Correct.

4 Q Did Lawson's system, as it was installed at that time,
5 have the capability to provide Novant supplier-hosted catalogs?

6 A No.

7 Q At the time of the RFP process, has the Lawson system, as
8 it's installed at Novant, changed?

9 A No.

10 Q So you still have the same product as was available with
11 this RFP process?

12 THE COURT: Whoa. He hasn't established that they
13 actually got the bid.

14 MR. SCHULTZ: No. Let me ask a better question.

15 THE COURT: That answer doesn't make any sense. The
16 question doesn't make any sense unless they got the bid.

17 Q As currently installed, the Lawson system -- you are still
18 operating the Lawson system; correct?

19 A Yes.

20 Q So it's currently installed. Does the Lawson system
21 that's installed at Novant have the capability to provide a
22 Novant supplier-hosted catalogs?

23 MR. STRAPP: Objection, Your Honor. There's been no
24 foundation laid that the witness actually has personal
25 familiarity with what capabilities and what Lawson system is